

AMENDED IN SENATE JUNE 30, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 161

Introduced by Assembly Member ~~Dymally~~ Steinberg

January 22, 2003

An act to ~~add Section 859.5 to the Penal Code, relating to criminal procedure~~ amend Section 12076 of, and to repeal Section 12071 of, the Penal Code, and to amend Section 3 of Chapter 909 of the Statutes of 2002, and Section 4 of Chapter 911 of the Statutes of 2002, relating to firearms, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 161, as amended, ~~Dymally~~ Steinberg. ~~Criminal procedure: felonies: interviews: videotape~~ Firearms.

Existing law authorizes the Department of Justice to require a firearms dealer to charge a fee to reimburse certain expenses incurred by the department in connection with checking the backgrounds of prospective firearms purchasers. Existing law also provides that these fees may not be used directly or as a loan to fund other programs.

This bill would recast those provisions to provide that the fees may be used to fund firearms-related regulatory and enforcement programs, as specified.

Existing law, subject to a contingency, requires persons licensed as a firearms dealer, importer, manufacturer, or collector, as specified, to provide a copy of that license to the Department of Justice, as specified. Existing law regulates the licensing of firearms dealers, and various dealer activities including, among other things, the transfer of firearms by dealers, and subject to a contingency, requires verification of certain

firearms dealers' licenses under specified circumstances. Existing law makes operation of those provisions effective January 1, 2004, contingent upon a specified amount of money being in reserve in the Dealers' Record of Sale Special Account.

This bill would provide that those provisions, the operation of which is currently subject to a contingency, would become operative on January 1, 2004.

This bill would make an appropriation of \$548,000 from the Dealer's Record of Sale Special Account to the Department of Justice for the purpose of implementing the provisions requiring verification of certain firearms dealers licenses in specified circumstances.

~~Existing law provides that under specified conditions the statements of witnesses, victims, or perpetrators of specified crimes may be recorded and preserved by means of videotape.~~

~~This bill would encourage law enforcement officials, as defined, who interview or interrogate persons accused of, arrested for, or charged with, a felony to voluntarily and for the interests of justice institute procedures whereby the interview or interrogation is simultaneously recorded and preserved by means of videotape, videodisc, or any other means of preserving audio and video.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 859.5 is added to the Penal Code, to~~
- 2 ~~SECTION 1. Section 12071 of the Penal Code, as amended by~~
- 3 ~~Section 1 of Chapter 911 of the Statutes of 2002, is repealed.~~
- 4 ~~12071. (a) (1) As used in this chapter, the term "licensee,"~~
- 5 ~~"person licensed pursuant to Section 12071," or "dealer" means~~
- 6 ~~a person who has all of the following:~~
- 7 ~~(A) A valid federal firearms license.~~
- 8 ~~(B) Any regulatory or business license, or licenses, required by~~
- 9 ~~local government.~~
- 10 ~~(C) A valid seller's permit issued by the State Board of~~
- 11 ~~Equalization.~~
- 12 ~~(D) A certificate of eligibility issued by the Department of~~
- 13 ~~Justice pursuant to paragraph (4).~~
- 14 ~~(E) A license issued in the format prescribed by paragraph (6).~~

1 ~~(F) Is among those recorded in the centralized list specified in~~
2 ~~subdivision (e).~~

3 ~~(2) The duly constituted licensing authority of a city, county, or~~
4 ~~a city and county shall accept applications for, and may grant~~
5 ~~licenses permitting, licensees to sell firearms at retail within the~~
6 ~~city, county, or city and county. The duly constituted licensing~~
7 ~~authority shall inform applicants who are denied licenses of the~~
8 ~~reasons for the denial in writing.~~

9 ~~(3) No license shall be granted to any applicant who fails to~~
10 ~~provide a copy of his or her valid federal firearms license, valid~~
11 ~~seller's permit issued by the State Board of Equalization, and the~~
12 ~~certificate of eligibility described in paragraph (4).~~

13 ~~(4) A person may request a certificate of eligibility from the~~
14 ~~Department of Justice and the Department of Justice shall issue a~~
15 ~~certificate to an applicant if the department's records indicate that~~
16 ~~the applicant is not a person who is prohibited from possessing~~
17 ~~firearms.~~

18 ~~(5) The department shall adopt regulations to administer the~~
19 ~~certificate of eligibility program and shall recover the full costs of~~
20 ~~administering the program by imposing fees assessed to applicants~~
21 ~~who apply for those certificates.~~

22 ~~(6) A license granted by the duly constituted licensing~~
23 ~~authority of any city, county, or city and county, shall be valid for~~
24 ~~not more than one year from the date of issuance and shall be in~~
25 ~~one of the following forms:~~

26 ~~(A) In the form prescribed by the Attorney General.~~

27 ~~(B) A regulatory or business license that states on its face~~
28 ~~“Valid for Retail Sales of Firearms” and is endorsed by the~~
29 ~~signature of the issuing authority.~~

30 ~~(C) A letter from the duly constituted licensing authority~~
31 ~~having primary jurisdiction for the applicant's intended business~~
32 ~~location stating that the jurisdiction does not require any form of~~
33 ~~regulatory or business license or does not otherwise restrict or~~
34 ~~regulate the sale of firearms.~~

35 ~~(7) Local licensing authorities may assess fees to recover their~~
36 ~~full costs of processing applications for licenses.~~

37 ~~(b) A license is subject to forfeiture for a breach of any of the~~
38 ~~following prohibitions and requirements:~~

1 ~~(1) (A) Except as provided in subparagraphs (B) and (C), the~~
2 ~~business shall be conducted only in the buildings designated in the~~
3 ~~license.~~

4 ~~(B) A person licensed pursuant to subdivision (a) may take~~
5 ~~possession of firearms and commence preparation of registers for~~
6 ~~the sale, delivery, or transfer of firearms at gun shows or events,~~
7 ~~as defined in Section 178.100 of Title 27 of the Code of Federal~~
8 ~~Regulations, or its successor, if the gun show or event is not~~
9 ~~conducted from any motorized or towed vehicle. A person~~
10 ~~conducting business pursuant to this subparagraph shall be entitled~~
11 ~~to conduct business as authorized herein at any gun show or event~~
12 ~~in the state without regard to the jurisdiction within this state that~~
13 ~~issued the license pursuant to subdivision (a), provided the person~~
14 ~~complies with (i) all applicable laws, including, but not limited to,~~
15 ~~the waiting period specified in subparagraph (A) of paragraph (3);~~
16 ~~and (ii) all applicable local laws, regulations, and fees, if any.~~

17 ~~A person conducting business pursuant to this subparagraph~~
18 ~~shall publicly display his or her license issued pursuant to~~
19 ~~subdivision (a), or a facsimile thereof, at any gun show or event,~~
20 ~~as specified in this subparagraph.~~

21 ~~(C) A person licensed pursuant to subdivision (a) may engage~~
22 ~~in the sale and transfer of firearms other than pistols, revolvers, or~~
23 ~~other firearms capable of being concealed upon the person, at~~
24 ~~events specified in subdivision (g) of Section 12078, subject to the~~
25 ~~prohibitions and restrictions contained in that subdivision.~~

26 ~~A person licensed pursuant to subdivision (a) also may accept~~
27 ~~delivery of firearms other than pistols, revolvers, or other firearms~~
28 ~~capable of being concealed upon the person, outside the building~~
29 ~~designated in the license, provided the firearm is being donated for~~
30 ~~the purpose of sale or transfer at an auction or similar event~~
31 ~~specified in subdivision (g) of Section 12078.~~

32 ~~(D) The firearm may be delivered to the purchaser, transferee,~~
33 ~~or person being loaned the firearm at one of the following places:~~

34 ~~(i) The building designated in the license.~~

35 ~~(ii) The places specified in subparagraph (B) or (C).~~

36 ~~(iii) The place of residence of, the fixed place of business of,~~
37 ~~or on private property owned or lawfully possessed by, the~~
38 ~~purchaser, transferee, or person being loaned the firearm.~~

1 ~~(2) The license or a copy thereof, certified by the issuing~~
2 ~~authority, shall be displayed on the premises where it can easily be~~
3 ~~seen.~~

4 ~~(3) No firearm shall be delivered:~~

5 ~~(A) Within 10 days of the application to purchase, or, after~~
6 ~~notice by the department pursuant to subdivision (d) of Section~~
7 ~~12076, within 10 days of the submission to the department of any~~
8 ~~correction to the application, or within 10 days of the submission~~
9 ~~to the department of any fee required pursuant to subdivision (e)~~
10 ~~of Section 12076, whichever is later.~~

11 ~~(B) Unless unloaded and securely wrapped or unloaded and in~~
12 ~~a locked container.~~

13 ~~(C) Unless the purchaser, transferee, or person being loaned the~~
14 ~~firearm presents clear evidence of his or her identity and age to the~~
15 ~~dealer.~~

16 ~~(D) Whenever the dealer is notified by the Department of~~
17 ~~Justice that the person is in a prohibited class described in Section~~
18 ~~12021 or 12021.1 of this code or Section 8100 or 8103 of the~~
19 ~~Welfare and Institutions Code. The dealer shall make available to~~
20 ~~the person in the prohibited class a prohibited notice and transfer~~
21 ~~form, provided by the department, stating that the person is~~
22 ~~prohibited from owning or possessing a firearm, and that the~~
23 ~~person may obtain from the department the reason for the~~
24 ~~prohibition.~~

25 ~~(4) No pistol, revolver, or other firearm or imitation thereof~~
26 ~~capable of being concealed upon the person, or placard advertising~~
27 ~~the sale or other transfer thereof, shall be displayed in any part of~~
28 ~~the premises where it can readily be seen from the outside.~~

29 ~~(5) The licensee shall agree to and shall act properly and~~
30 ~~promptly in processing firearms transactions pursuant to Section~~
31 ~~12082.~~

32 ~~(6) The licensee shall comply with Sections 12073, 12076, and~~
33 ~~12077, subdivisions (a) and (b) of Section 12072, and subdivision~~
34 ~~(a) of Section 12316.~~

35 ~~(7) The licensee shall post conspicuously within the licensed~~
36 ~~premises the following warnings in block letters not less than one~~
37 ~~inch in height:~~

38 ~~(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY~~
39 ~~PREMISES UNDER YOUR CUSTODY OR CONTROL, AND~~
40 ~~A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND~~

1 USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES
2 IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A
3 MISDEMEANOR OR A FELONY UNLESS YOU STORED
4 THE FIREARM IN A LOCKED CONTAINER OR LOCKED
5 THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT
6 FROM TEMPORARILY FUNCTIONING.”

7 (B) “IF YOU KEEP A PISTOL, REVOLVER, OR OTHER
8 FIREARM CAPABLE OF BEING CONCEALED UPON THE
9 PERSON, WITHIN ANY PREMISES UNDER YOUR
10 CUSTODY OR CONTROL, AND A PERSON UNDER 18
11 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND
12 CARRIES IT OFF PREMISES, YOU MAY BE GUILTY OF A
13 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN
14 A LOCKED CONTAINER, OR LOCKED THE FIREARM
15 WITH A LOCKING DEVICE, TO KEEP IT FROM
16 TEMPORARILY FUNCTIONING.”

17 (C) “IF YOU KEEP ANY FIREARM WITHIN ANY
18 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
19 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO
20 THE FIREARM, AND CARRIES IT OFF PREMISES TO A
21 SCHOOL OR SCHOOL SPONSORED EVENT, YOU MAY BE
22 GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP
23 TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU
24 STORED THE FIREARM IN A LOCKED CONTAINER, OR
25 LOCKED THE FIREARM WITH A LOCKING DEVICE.”

26 (D) “DISCHARGING FIREARMS IN POORLY
27 VENTILATED AREAS, CLEANING FIREARMS, OR
28 HANDLING AMMUNITION MAY RESULT IN EXPOSURE
29 TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH
30 DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS
31 PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT
32 ALL TIMES. WASH HANDS THOROUGHLY AFTER
33 EXPOSURE.”

34 (E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU
35 DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM
36 THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30
37 DAYS AFTER YOU COMPLETE THE INITIAL
38 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE
39 TO GO THROUGH THE BACKGROUND CHECK PROCESS

1 ~~A SECOND TIME IN ORDER TO TAKE PHYSICAL~~
2 ~~POSSESSION OF THAT FIREARM.”~~

3 ~~(F) “NO PERSON SHALL MAKE AN APPLICATION TO~~
4 ~~PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR~~
5 ~~OTHER FIREARM CAPABLE OF BEING CONCEALED~~
6 ~~UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND~~
7 ~~NO DELIVERY SHALL BE MADE TO ANY PERSON WHO~~
8 ~~HAS MADE AN APPLICATION TO PURCHASE MORE~~
9 ~~THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM~~
10 ~~CAPABLE OF BEING CONCEALED UPON THE PERSON~~
11 ~~WITHIN ANY 30-DAY PERIOD.”~~

12 ~~(8) (A) Commencing April 1, 1994, and until January 1, 2003,~~
13 ~~no pistol, revolver, or other firearm capable of being concealed~~
14 ~~upon the person shall be delivered unless the purchaser, transferee,~~
15 ~~or person being loaned the firearm presents to the dealer a basic~~
16 ~~firearms safety certificate.~~

17 ~~(B) Commencing January 1, 2003, no dealer may deliver a~~
18 ~~handgun unless the person receiving the handgun presents to the~~
19 ~~dealer a valid handgun safety certificate. The firearms dealer shall~~
20 ~~retain a photocopy of the handgun safety certificate as proof of~~
21 ~~compliance with this requirement.~~

22 ~~(C) Commencing January 1, 2003, no handgun may be~~
23 ~~delivered unless the purchaser, transferee, or person being loaned~~
24 ~~the firearm presents documentation indicating that he or she is a~~
25 ~~California resident. Satisfactory documentation shall include a~~
26 ~~utility bill from within the last three months, a residential lease, a~~
27 ~~property deed, or military permanent duty station orders indicating~~
28 ~~assignment within this state, or other evidence of residency as~~
29 ~~permitted by the Department of Justice. The firearms dealer shall~~
30 ~~retain a photocopy of the documentation as proof of compliance~~
31 ~~with this requirement.~~

32 ~~(D) Commencing January 1, 2003, except as authorized by the~~
33 ~~department, no firearms dealer may deliver a handgun unless the~~
34 ~~recipient performs a safe handling demonstration with that~~
35 ~~handgun. The demonstration shall commence with the handgun~~
36 ~~unloaded and locked with the firearm safety device with which it~~
37 ~~is required to be delivered, if applicable. While maintaining~~
38 ~~muzzle awareness, that is, the firearm is pointed in a safe direction,~~
39 ~~preferably down at the ground, and trigger discipline, that is, the~~
40 ~~trigger finger is outside of the trigger guard and along side of the~~

1 handgun frame, at all times, the handgun recipient shall correctly
2 and safely perform the following:

3 (i) ~~If the handgun is a semiautomatic pistol:~~

4 ~~(I) Remove the magazine.~~

5 ~~(II) Lock the slide back. If the model of firearm does not allow~~
6 ~~the slide to be locked back, pull the slide back, visually and~~
7 ~~physically check the chamber to ensure that it is clear.~~

8 ~~(III) Visually and physically inspect the chamber, to ensure that~~
9 ~~the handgun is unloaded.~~

10 ~~(IV) Remove the firearm safety device, if applicable. If the~~
11 ~~firearm safety device prevents any of the previous steps, remove~~
12 ~~the firearm safety device during the appropriate step.~~

13 ~~(V) Load one bright orange, red, or other readily identifiable~~
14 ~~dummy round into the magazine. If no readily identifiable dummy~~
15 ~~round is available, an empty cartridge casing with an empty primer~~
16 ~~pocket may be used.~~

17 ~~(VI) Insert the magazine into the magazine well of the firearm.~~

18 ~~(VII) Manipulate the slide release or pull back and release the~~
19 ~~slide.~~

20 ~~(VIII) Remove the magazine.~~

21 ~~(IX) Visually inspect the chamber to reveal that a round can be~~
22 ~~chambered with the magazine removed.~~

23 ~~(X) Lock the slide back to eject the bright orange, red, or other~~
24 ~~readily identifiable dummy round. If the handgun is of a model that~~
25 ~~does not allow the slide to be locked back, pull the slide back and~~
26 ~~physically check the chamber to ensure that the chamber is clear.~~
27 ~~If no readily identifiable dummy round is available, an empty~~
28 ~~cartridge casing with an empty primer pocket may be used.~~

29 ~~(XI) Apply the safety, if applicable.~~

30 ~~(XII) Apply the firearm safety device, if applicable. This~~
31 ~~requirement shall not apply to an Olympic competition pistol if no~~
32 ~~firearms safety device, other than a cable lock that the department~~
33 ~~has determined would damage the barrel of the pistol, has been~~
34 ~~approved for the pistol, and the pistol is either listed in paragraph~~
35 ~~(2) of subdivision (h) of Section 12132 or is subject to paragraph~~
36 ~~(3) of subdivision (h) of Section 12132.~~

37 ~~(ii) If the handgun is a double-action revolver:~~

38 ~~(I) Open the cylinder.~~

39 ~~(II) Visually and physically inspect each chamber, to ensure~~
40 ~~that the revolver is unloaded.~~

1 ~~(III) Remove the firearm safety device. If the firearm safety~~
2 ~~device prevents any of the previous steps, remove the firearm~~
3 ~~safety device during the appropriate step.~~

4 ~~(IV) While maintaining muzzle awareness and trigger~~
5 ~~discipline, load one bright orange, red, or other readily identifiable~~
6 ~~dummy round into a chamber of the cylinder and rotate the~~
7 ~~cylinder so that the round is in the next to fire position. If no~~
8 ~~readily identifiable dummy round is available, an empty cartridge~~
9 ~~casing with an empty primer pocket may be used.~~

10 ~~(V) Close the cylinder.~~

11 ~~(VI) Open the cylinder and eject the round.~~

12 ~~(VII) Visually and physically inspect each chamber to ensure~~
13 ~~that the revolver is unloaded.~~

14 ~~(VIII) Apply the firearm safety device, if applicable. This~~
15 ~~requirement shall not apply to an Olympic competition pistol if no~~
16 ~~firearms safety device, other than a cable lock that the department~~
17 ~~has determined would damage the barrel of the pistol, has been~~
18 ~~approved for the pistol, and the pistol is either listed in paragraph~~
19 ~~(2) of subdivision (h) of Section 12132 or is subject to paragraph~~
20 ~~(3) of subdivision (h) of Section 12132.~~

21 ~~(iii) If the handgun is a single-action revolver:~~

22 ~~(I) Open the loading gate.~~

23 ~~(II) Visually and physically inspect each chamber, to ensure~~
24 ~~that the revolver is unloaded.~~

25 ~~(III) Remove the firearm safety device required to be sold with~~
26 ~~the handgun. If the firearm safety device prevents any of the~~
27 ~~previous steps, remove the firearm safety device during the~~
28 ~~appropriate step.~~

29 ~~(IV) Load one bright orange, red, or other readily identifiable~~
30 ~~dummy round into a chamber of the cylinder, close the loading~~
31 ~~gate and rotate the cylinder so that the round is in the next-to-fire~~
32 ~~position. If no readily identifiable dummy round is available, an~~
33 ~~empty cartridge casing with an empty primer pocket may be used.~~

34 ~~(V) Open the loading gate and unload the revolver.~~

35 ~~(VI) Visually and physically inspect each chamber to ensure~~
36 ~~that the revolver is unloaded.~~

37 ~~(VII) Apply the firearm safety device, if applicable. This~~
38 ~~requirement shall not apply to an Olympic competition pistol if no~~
39 ~~firearms safety device, other than a cable lock that the department~~
40 ~~has determined would damage the barrel of the pistol, has been~~

1 approved for the pistol, and the pistol is either listed in paragraph
2 (2) of subdivision (h) of Section 12132 or is subject to paragraph
3 (3) of subdivision (h) of Section 12132.

4 (E) The recipient shall receive instruction regarding how to
5 render that handgun safe in the event of a jam.

6 (F) The firearms dealer shall sign and date an affidavit stating
7 that the requirements of subparagraph (D) have been met. The
8 firearms dealer shall additionally obtain the signature of the
9 handgun purchaser on the same affidavit. The firearms dealer shall
10 retain the original affidavit as proof of compliance with this
11 requirement.

12 (G) The recipient shall perform the safe handling
13 demonstration for a department certified instructor.

14 (H) No demonstration shall be required if the dealer is
15 returning the handgun to the owner of the handgun.

16 (I) Department certified instructors who may administer the
17 safe handling demonstration shall meet the requirements set forth
18 in subdivision (j) of Section 12804.

19 (J) The persons who are exempt from the requirements of
20 subdivision (b) of Section 12801, pursuant to Section 12807, are
21 also exempt from performing the safe handling demonstration.

22 (9) Commencing July 1, 1992, the licensee shall offer to
23 provide the purchaser or transferee of a firearm, or person being
24 loaned a firearm, with a copy of the pamphlet described in Section
25 12080 and may add the cost of the pamphlet, if any, to the sales
26 price of the firearm.

27 (10) The licensee shall not commit an act of collusion as
28 defined in Section 12072.

29 (11) The licensee shall post conspicuously within the licensed
30 premises a detailed list of each of the following:

31 (A) All charges required by governmental agencies for
32 processing firearm transfers required by Sections 12076, 12082,
33 and 12806.

34 (B) All fees that the licensee charges pursuant to Sections
35 12082 and 12806.

36 (12) The licensee shall not misstate the amount of fees charged
37 by a governmental agency pursuant to Sections 12076, 12082, and
38 12806.

39 (13) The licensee shall report the loss or theft of any firearm
40 that is merchandise of the licensee, any firearm that the licensee

1 ~~takes possession of pursuant to Section 12082, or any firearm kept~~
2 ~~at the licensee's place of business within 48 hours of discovery to~~
3 ~~the appropriate law enforcement agency in the city, county, or city~~
4 ~~and county where the licensee's business premises are located.~~

5 ~~(14) In a city and county, or in the unincorporated area of a~~
6 ~~county with a population of 200,000 persons or more according to~~
7 ~~the most recent federal decennial census or within a city with a~~
8 ~~population of 50,000 persons or more according to the most recent~~
9 ~~federal decennial census, any time the licensee is not open for~~
10 ~~business, the licensee shall store all firearms kept in his or her~~
11 ~~licensed place of business using one of the following methods as~~
12 ~~to each particular firearm:~~

13 ~~(A) Store the firearm in a secure facility that is a part of, or that~~
14 ~~constitutes, the licensee's business premises.~~

15 ~~(B) Secure the firearm with a hardened steel rod or cable of at~~
16 ~~least one-eighth inch in diameter through the trigger guard of the~~
17 ~~firearm. The steel rod or cable shall be secured with a hardened~~
18 ~~steel lock that has a shackle. The lock and shackle shall be~~
19 ~~protected or shielded from the use of a bolt cutter and the rod or~~
20 ~~cable shall be anchored in a manner that prevents the removal of~~
21 ~~the firearm from the premises.~~

22 ~~(C) Store the firearm in a locked fireproof safe or vault in the~~
23 ~~licensee's business premises.~~

24 ~~(15) The licensing authority in an unincorporated area of a~~
25 ~~county with a population of less than 200,000 persons according~~
26 ~~to the most recent federal decennial census or within a city with a~~
27 ~~population of less than 50,000 persons according to the most recent~~
28 ~~federal decennial census may impose the requirements specified~~
29 ~~in paragraph (14).~~

30 ~~(16) Commencing January 1, 1994, the licensee shall, upon the~~
31 ~~issuance or renewal of a license, submit a copy of the same to the~~
32 ~~Department of Justice.~~

33 ~~(17) The licensee shall maintain and make available for~~
34 ~~inspection during business hours to any peace officer, authorized~~
35 ~~local law enforcement employee, or Department of Justice~~
36 ~~employee designated by the Attorney General, upon the~~
37 ~~presentation of proper identification, a firearms transaction~~
38 ~~record.~~

39 ~~(18) (A) On the date of receipt, the licensee shall report to the~~
40 ~~Department of Justice in a format prescribed by the department the~~

1 acquisition by the licensee of the ownership of a pistol, revolver,
2 or other firearm capable of being concealed upon the person.

3 (B) The provisions of this paragraph shall not apply to any of
4 the following transactions:

5 (i) A transaction subject to the provisions of subdivision (n) of
6 Section 12078.

7 (ii) The dealer acquired the firearm from a wholesaler.

8 (iii) The dealer is also licensed as a secondhand dealer pursuant
9 to Article 4 (commencing with Section 21625) of Chapter 9 of
10 Division 8 of the Business and Professions Code.

11 (iv) The dealer acquired the firearm from a person who is
12 licensed as a manufacturer or importer to engage in those activities
13 pursuant to Chapter 44 (commencing with Section 921) of Title 18
14 of the United States Code and any regulations issued pursuant
15 thereto.

16 (v) The dealer acquired the firearm from a person who resides
17 outside this state who is licensed pursuant to Chapter 44
18 (commencing with Section 921) of Title 18 of the United States
19 Code and any regulations issued pursuant thereto.

20 (19) The licensee shall forward in a format prescribed by the
21 Department of Justice, information as required by the department
22 on any firearm that is not delivered within the time period set forth
23 in Section 178.102 (c) of Title 27 of the Code of Federal
24 Regulations.

25 (e) (1) As used in this article, “clear evidence of his or her
26 identity and age” means either of the following:

27 (A) A valid California driver’s license.

28 (B) A valid California identification card issued by the
29 Department of Motor Vehicles.

30 (2) As used in this section, a “secure facility” means a building
31 that meets all of the following specifications:

32 (A) All perimeter doorways shall meet one of the following:

33 (i) A windowless steel security door equipped with both a dead
34 bolt and a doorknob lock.

35 (ii) A windowed metal door that is equipped with both a dead
36 bolt and a doorknob lock. If the window has an opening of 5 inches
37 or more measured in any direction, the window shall be covered
38 with steel bars of at least $\frac{1}{2}$ inch diameter or metal grating of at
39 least 9 gauge affixed to the exterior or interior of the door.

1 ~~(iii) A metal grate that is padlocked and affixed to the licensee's~~
2 ~~premises independent of the door and doorframe.~~

3 ~~(B) All windows are covered with steel bars.~~

4 ~~(C) Heating, ventilating, air conditioning, and service~~
5 ~~openings are secured with steel bars, metal grating, or an alarm~~
6 ~~system.~~

7 ~~(D) Any metal grates have spaces no larger than 6 inches wide~~
8 ~~measured in any direction.~~

9 ~~(E) Any metal screens have spaces no larger than 3 inches wide~~
10 ~~measured in any direction.~~

11 ~~(F) All steel bars shall be no further than 6 inches apart.~~

12 ~~(3) As used in this section, "licensed premises," "licensed~~
13 ~~place of business," "licensee's place of business," or "licensee's~~
14 ~~business premises" means the building designated in the license.~~

15 ~~(4) For purposes of paragraph (17) of subdivision (b):~~

16 ~~(A) A "firearms transaction record" is a record containing the~~
17 ~~same information referred to in subdivision (a) of Section~~
18 ~~178.124, Section 178.124a, and subdivision (c) of Section~~
19 ~~178.125 of Title 27 of the Code of Federal Regulations.~~

20 ~~(B) A licensee shall be in compliance with the provisions of~~
21 ~~paragraph (17) of subdivision (b) if he or she maintains and makes~~
22 ~~available for inspection during business hours to any peace officer,~~
23 ~~authorized local law enforcement employee, or Department of~~
24 ~~Justice employee designated by the Attorney General, upon the~~
25 ~~presentation of proper identification, the bound book containing~~
26 ~~the same information referred to in Section 178.124a and~~
27 ~~subdivision (c) of Section 178.125 of Title 27 of the Code of~~
28 ~~Federal Regulations and the records referred to in subdivision (a)~~
29 ~~of Section 178.124 of Title 27 of the Code of Federal Regulations.~~

30 ~~(d) Upon written request from a licensee, the licensing~~
31 ~~authority may grant an exemption from compliance with the~~
32 ~~requirements of paragraph (14) of subdivision (b) if the licensee~~
33 ~~is unable to comply with those requirements because of local~~
34 ~~ordinances, covenants, lease conditions, or similar circumstances~~
35 ~~not under the control of the licensee.~~

36 ~~(e) Except as otherwise provided in this subdivision, the~~
37 ~~Department of Justice shall keep a centralized list of all persons~~
38 ~~licensed pursuant to subparagraphs (A) to (E), inclusive, of~~
39 ~~paragraph (1) of subdivision (a). The department may remove~~
40 ~~from this list any person who knowingly or with gross negligence~~

~~violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer's business is located. The department shall make information about an individual dealer available, upon request, for one of the following purposes only:~~

~~(1) For law enforcement purposes.~~

~~(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.~~

~~(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b). Information provided pursuant to this paragraph shall be limited to information necessary to corroborate an individual's current license status.~~

~~(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.~~

~~(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of~~

1 ~~dealers found to have violated this article with knowledge or gross~~
2 ~~negligence.~~

3 ~~(h) Paragraph (14) or (15) of subdivision (b) shall not apply to~~
4 ~~a licensee organized as a nonprofit public benefit or mutual benefit~~
5 ~~corporation organized pursuant to Part 2 (commencing with~~
6 ~~Section 5110) or Part 3 (commencing with Section 7110) of~~
7 ~~Division 2 of the Corporations Code, if both of the following~~
8 ~~conditions are satisfied:~~

9 ~~(1) The nonprofit public benefit or mutual benefit corporation~~
10 ~~obtained the dealer's license solely and exclusively to assist that~~
11 ~~corporation or local chapters of that corporation in conducting~~
12 ~~auctions or similar events at which firearms are auctioned off to~~
13 ~~fund the activities of that corporation or the local chapters of the~~
14 ~~corporation.~~

15 ~~(2) The firearms are not pistols, revolvers, or other firearms~~
16 ~~capable of being concealed upon the person.~~

17 *SEC. 2. Section 12076 of the Penal Code is amended to read:*

18 12076. (a) (1) Before January 1, 1998, the Department of
19 Justice shall determine the method by which a dealer shall submit
20 firearm purchaser information to the department and the
21 information shall be in one of the following formats:

22 (A) Submission of the register described in Section 12077.

23 (B) Electronic or telephonic transfer of the information
24 contained in the register described in Section 12077.

25 (2) On or after January 1, 1998, electronic or telephonic
26 transfer, including voice or facsimile transmission, shall be the
27 exclusive means by which purchaser information is transmitted to
28 the department.

29 (3) On or after January 1, 2003, except as permitted by the
30 department, electronic transfer shall be the exclusive means by
31 which information is transmitted to the department. Telephonic
32 transfer shall not be permitted for information regarding sales of
33 any firearms.

34 (b) (1) Where the register is used, the purchaser of any firearm
35 shall be required to present clear evidence of his or her identity and
36 age, as defined in Section 12071, to the dealer, and the dealer shall
37 require him or her to sign his or her current legal name and affix
38 his or her residence address and date of birth to the register in
39 quadruplicate. The salesperson shall affix his or her signature to
40 the register in quadruplicate as a witness to the signature and

1 identification of the purchaser. Any person furnishing a fictitious
2 name or address or knowingly furnishing any incorrect
3 information or knowingly omitting any information required to be
4 provided for the register and any person violating any provision of
5 this section is guilty of a misdemeanor.

6 (2) The original of the register shall be retained by the dealer
7 in consecutive order. Each book of 50 originals shall become the
8 permanent register of transactions that shall be retained for not less
9 than three years from the date of the last transaction and shall be
10 available for the inspection of any peace officer, Department of
11 Justice employee designated by the Attorney General, or agent of
12 the federal Bureau of Alcohol, Tobacco, and Firearms upon the
13 presentation of proper identification, but no information shall be
14 compiled therefrom regarding the purchasers or other transferees
15 of firearms that are not pistols, revolvers, or other firearms capable
16 of being concealed upon the person.

17 (3) Two copies of the original sheet of the register, on the date
18 of the application to purchase, shall be placed in the mail, postage
19 prepaid, and properly addressed to the Department of Justice in
20 Sacramento.

21 (4) If requested, a photocopy of the original shall be provided
22 to the purchaser by the dealer.

23 (5) If the transaction is one conducted pursuant to Section
24 12082, a photocopy of the original shall be provided to the seller
25 by the dealer, upon request.

26 (c) (1) Where the electronic or telephonic transfer of applicant
27 information is used, the purchaser shall be required to present clear
28 evidence of his or her identity and age, as defined in Section
29 12071, to the dealer, and the dealer shall require him or her to sign
30 his or her current legal name to the record of electronic or
31 telephonic transfer. The salesperson shall affix his or her signature
32 to the record of electronic or telephonic transfer as a witness to the
33 signature and identification of the purchaser. Any person
34 furnishing a fictitious name or address or knowingly furnishing
35 any incorrect information or knowingly omitting any information
36 required to be provided for the electronic or telephonic transfer
37 and any person violating any provision of this section is guilty of
38 a misdemeanor.



1 (2) The record of applicant information shall be transmitted to
2 the Department of Justice in Sacramento by electronic or
3 telephonic transfer on the date of the application to purchase.

4 (3) The original of each record of electronic or telephonic
5 transfer shall be retained by the dealer in consecutive order. Each
6 original shall become the permanent record of the transaction that
7 shall be retained for not less than three years from the date of the
8 last transaction and shall be provided for the inspection of any
9 peace officer, Department of Justice employee designated by the
10 Attorney General, or agent of the federal Bureau of Alcohol,
11 Tobacco, and Firearms, upon the presentation of proper
12 identification, but no information shall be compiled therefrom
13 regarding the purchasers or other transferees of firearms that are
14 not pistols, revolvers, or other firearms capable of being concealed
15 upon the person.

16 (4) If requested, a copy of the record of electronic or telephonic
17 transfer shall be provided to the purchaser by the dealer.

18 (5) If the transaction is one conducted pursuant to Section
19 12082, a copy shall be provided to the seller by the dealer, upon
20 request.

21 (d) (1) The department shall examine its records, as well as
22 those records that it is authorized to request from the State
23 Department of Mental Health pursuant to Section 8104 of the
24 Welfare and Institutions Code, in order to determine if the
25 purchaser is a person described in Section 12021, 12021.1, or
26 subparagraph (A) of paragraph (9) of subdivision (a) of Section
27 12072 of this code or Section 8100 or 8103 of the Welfare and
28 Institutions Code.

29 (2) To the extent that funding is available, the Department of
30 Justice may participate in the National Instant Criminal
31 Background Check System (NICS), as described in subsection (t)
32 of Section 922 of Title 18 of the United States Code, and, if that
33 participation is implemented, shall notify the dealer and the chief
34 of the police department of the city or city and county in which the
35 sale was made, or if the sale was made in a district in which there
36 is no municipal police department, the sheriff of the county in
37 which the sale was made, that the purchaser is a person prohibited
38 from acquiring a firearm under federal law.

39 (3) If the department determines that the purchaser is a person
40 described in Section 12021, 12021.1, or subparagraph (A) of

1 paragraph (9) of subdivision (a) of Section 12072 of this code or
2 Section 8100 or 8103 of the Welfare and Institutions Code, it shall
3 immediately notify the dealer and the chief of the police
4 department of the city or city and county in which the sale was
5 made, or if the sale was made in a district in which there is no
6 municipal police department, the sheriff of the county in which the
7 sale was made, of that fact.

8 (4) If the department determines that the copies of the register
9 submitted to it pursuant to paragraph (3) of subdivision (b) contain
10 any blank spaces or inaccurate, illegible, or incomplete
11 information, preventing identification of the purchaser or the
12 pistol, revolver, or other firearm to be purchased, or if any fee
13 required pursuant to subdivision (e) is not submitted by the dealer
14 in conjunction with submission of copies of the register, the
15 department may notify the dealer of that fact. Upon notification by
16 the department, the dealer shall submit corrected copies of the
17 register to the department, or shall submit any fee required
18 pursuant to subdivision (e), or both, as appropriate and, if
19 notification by the department is received by the dealer at any time
20 prior to delivery of the firearm to be purchased, the dealer shall
21 withhold delivery until the conclusion of the waiting period
22 described in Sections 12071 and 12072.

23 (5) If the department determines that the information
24 transmitted to it pursuant to subdivision (c) contains inaccurate or
25 incomplete information preventing identification of the purchaser
26 or the pistol, revolver, or other firearm capable of being concealed
27 upon the person to be purchased, or if the fee required pursuant to
28 subdivision (e) is not transmitted by the dealer in conjunction with
29 transmission of the electronic or telephonic record, the department
30 may notify the dealer of that fact. Upon notification by the
31 department, the dealer shall transmit corrections to the record of
32 electronic or telephonic transfer to the department, or shall
33 transmit any fee required pursuant to subdivision (e), or both, as
34 appropriate, and if notification by the department is received by
35 the dealer at any time prior to delivery of the firearm to be
36 purchased, the dealer shall withhold delivery until the conclusion
37 of the waiting period described in Sections 12071 and 12072.

38 (e) The Department of Justice may require the dealer to charge
39 each firearm purchaser a fee not to exceed fourteen dollars (\$14),
40 except that the fee may be increased at a rate not to exceed any

1 increase in the California Consumer Price Index as compiled and
2 reported by the California Department of Industrial Relations. The
3 fee shall be no more than is ~~sufficient to reimburse all of the~~
4 ~~following, and is not to be used to directly fund or as a loan to fund~~
5 ~~any other program necessary to fund the following:~~

6 (1) (A) The department for the cost of furnishing this
7 information.

8 (B) The department for the cost of meeting its obligations
9 under paragraph (2) of subdivision (b) of Section 8100 of the
10 Welfare and Institutions Code.

11 (2) Local mental health facilities for state-mandated local costs
12 resulting from the reporting requirements imposed by Section
13 8103 of the Welfare and Institutions Code.

14 (3) The State Department of Mental Health for the costs
15 resulting from the requirements imposed by Section 8104 of the
16 Welfare and Institutions Code.

17 (4) Local mental hospitals, sanitariums, and institutions for
18 state-mandated local costs resulting from the reporting
19 requirements imposed by Section 8105 of the Welfare and
20 Institutions Code.

21 (5) Local law enforcement agencies for state-mandated local
22 costs resulting from the notification requirements set forth in
23 subdivision (a) of Section 6385 of the Family Code.

24 (6) Local law enforcement agencies for state-mandated local
25 costs resulting from the notification requirements set forth in
26 subdivision (c) of Section 8105 of the Welfare and Institutions
27 Code.

28 (7) For the actual costs associated with the electronic or
29 telephonic transfer of information pursuant to subdivision (c).

30 (8) The Department of Food and Agriculture for the costs
31 resulting from the notification provisions set forth in Section
32 5343.5 of the Food and Agricultural Code.

33 (9) The department for the costs associated with subparagraph
34 (D) of paragraph (2) of subdivision (f) of Section 12072.

35 (10) *The department for the costs associated with funding*
36 *Department of Justice firearms-related regulatory and*
37 *enforcement activities related to the sale, purchase, loan, or*
38 *transfer of firearms pursuant to this chapter.*

39 The fee established pursuant to this subdivision shall not exceed
40 the sum of the actual processing costs of the department, the

1 estimated reasonable costs of the local mental health facilities for
2 complying with the reporting requirements imposed by paragraph
3 (2) of this subdivision, the costs of the State Department of Mental
4 Health for complying with the requirements imposed by paragraph
5 (3) of this subdivision, the estimated reasonable costs of local
6 mental hospitals, sanitariums, and institutions for complying with
7 the reporting requirements imposed by paragraph (4) of this
8 subdivision, the estimated reasonable costs of local law
9 enforcement agencies for complying with the notification
10 requirements set forth in subdivision (a) of Section 6385 of the
11 Family Code, the estimated reasonable costs of local law
12 enforcement agencies for complying with the notification
13 requirements set forth in subdivision (c) of Section 8105 of the
14 Welfare and Institutions Code imposed by paragraph (6) of this
15 subdivision, the estimated reasonable costs of the Department of
16 Food and Agriculture for the costs resulting from the notification
17 provisions set forth in Section 5343.5 of the Food and Agricultural
18 Code, ~~and~~ the estimated reasonable costs of the department for the
19 costs associated with subparagraph (D) of paragraph (2) of
20 subdivision (f) of Section 12072, *and the estimated reasonable*
21 *costs of department firearms-related regulatory and enforcement*
22 *activities related to the sale, purchase, loan, or transfer of firearms*
23 *pursuant to this chapter.*

24 (f) (1) The Department of Justice may charge a fee sufficient
25 to reimburse it for each of the following but not to exceed fourteen
26 dollars (\$14), except that the fee may be increased at a rate not to
27 exceed any increase in the California Consumer Price Index as
28 compiled and reported by the California Department of Industrial
29 Relations:

30 (A) For the actual costs associated with the preparation, sale,
31 processing, and filing of forms or reports required or utilized
32 pursuant to Section 12078 if neither a dealer nor a law enforcement
33 agency acting pursuant to Section 12084 is filing the form or
34 report.

35 (B) For the actual processing costs associated with the
36 submission of a Dealers' Record of Sale to the department by a
37 dealer or of the submission of a LEFT to the department by a law
38 enforcement agency acting pursuant to Section 12084 if the
39 waiting period described in Sections 12071, 12072, and 12084
40 does not apply.



(C) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (l) of Section 12078 or paragraph (18) of subdivision (b) of Section 12071, or clause (i) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, or paragraph (3) of subdivision (f) of Section 12072.

(D) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(2) If the department charges a fee pursuant to subparagraph (B) of paragraph (1) of this subdivision, it shall be charged in the same amount to all categories of transaction that are within that subparagraph.

(3) Any costs incurred by the Department of Justice to implement this subdivision shall be reimbursed from fees collected and charged pursuant to this subdivision. No fees shall be charged to the dealer pursuant to subdivision (e) or to a law enforcement agency acting pursuant to paragraph (6) of subdivision (d) of Section 12084 for costs incurred for implementing this subdivision.

(g) All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section, paragraph (1) and subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, Sections 12083 and 12099, subdivision (c) of Section 12131, Sections 12234, 12289, and 12289.5, and subdivisions (f) and (g) of Section 12305.

(h) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in subdivision (e) to the department.

(i) (1) Only one fee shall be charged pursuant to this section for a single transaction on the same date for the sale of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person or for the taking of possession of those firearms.

(2) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the

1 department shall charge a reduced fee pursuant to this section for
2 the second and subsequent firearms that are part of that transaction.

3 (j) Only one fee shall be charged pursuant to this section for a
4 single transaction on the same date for taking title or possession of
5 any number of firearms pursuant to paragraph (18) of subdivision
6 (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

7 (k) Whenever the Department of Justice acts pursuant to this
8 section as it pertains to firearms other than pistols, revolvers, or
9 other firearms capable of being concealed upon the person, the
10 department's acts or omissions shall be deemed to be discretionary
11 within the meaning of the California Tort Claims Act pursuant to
12 Division 3.6 (commencing with Section 810) of Title 1 of the
13 Government Code.

14 (l) As used in this section, the following definitions apply:

15 (1) "Purchaser" means the purchaser or transferee of a firearm
16 or a person being loaned a firearm.

17 (2) "Purchase" means the purchase, loan, or transfer of a
18 firearm.

19 (3) "Sale" means the sale, loan, or transfer of a firearm.

20 (4) "Seller" means, if the transaction is being conducted
21 pursuant to Section 12082, the person selling, loaning, or
22 transferring the firearm.

23 *SEC. 3. Section 9 of Chapter 909 of the Statutes of 2002 is*
24 *amended to read:*

25 Sec. 9. Notwithstanding subdivision (c) of Section 12083,
26 Section 12083 of the Penal Code, ~~and the amendments made to~~
27 ~~Section 12071 of the Penal Code by this act shall become operative~~
28 ~~on January 1, 2004, if the actual reserve balance in the Dealers'~~
29 ~~Record of Sale Special Account is one million dollars~~
30 ~~(\$1,000,000) or more on January 1, 2004, as determined by the~~
31 ~~department. If the reserve balance is not equal to one million~~
32 ~~dollars (\$1,000,000) or more on January 1, 2004, as determined by~~
33 ~~the department, those provisions shall become operative when the~~
34 ~~department determines that the actual reserve balance in the~~
35 ~~Dealers' Record of Sale Special Account equals one million~~
36 ~~dollars (\$1,000,000) or more.~~

37 *SEC. 4. Section 4 of Chapter 911 of the Statutes of 2002 is*
38 *amended to read:*

39 Sec. 4. Section 1.5 of this bill incorporates amendments to
40 Section 12071 of the Penal Code proposed by both this bill and AB

1 2080. It shall only become operative if (1) both bills are enacted
2 and become effective on or before January 1, 2003, ~~but this bill~~
3 ~~becomes operative with regard to Section 12071 of the Penal Code~~
4 ~~first~~, (2) each bill amends Section 12071 of the Penal Code, and
5 (3) this bill is enacted after AB 2080, in which case Section 12071
6 of the Penal Code, as amended by Section 1 of this bill, shall
7 remain operative only until ~~the operative date of Section 12071~~
8 ~~specified in AB 2080~~ January 1, 2004, at which time Section 1.5
9 of this bill shall become operative.

10 *SEC. 5. The sum of five hundred forty-eight thousand dollars*
11 *(\$548,000) is hereby appropriated from the Dealers' Record of*
12 *Sale Special Account to the Department of Justice for purposes of*
13 *implementing Section 12083 of the Penal Code, as added by*
14 *Chapter 909 of the Statutes of 2002.*

15 ~~read:~~

16 ~~859.5. (a) Law enforcement officials who interview or~~
17 ~~interrogate persons accused of, arrested for, or charged with, a~~
18 ~~felony are encouraged to voluntarily and for the interests of justice~~
19 ~~institute procedures whereby the interview or interrogation is~~
20 ~~simultaneously recorded and preserved by means of videotape,~~
21 ~~videodisc, or any other means of preserving audio and video.~~

22 ~~(b) For the purposes of this section, "law enforcement official"~~
23 ~~includes any officer of the police, sheriff, highway patrol, or~~
24 ~~district attorney, and any peace officer included in Chapter 4.5~~
25 ~~(commencing with 830) of Title 3 of Part 2.~~